

NOTICE

The judges of the Courts of Tippecanoe County, having decided to modify the Local Rules of those courts, now give notice to the bar and public of the proposed additions, modifications, and deletions, which are attached hereto.

The bar and the public are invited to submit comments on these proposed modifications to the Judge of Superior Court No. 5, 301 Main Street, Lafayette, Indiana 47901, or to any other judge of a court of general jurisdiction in Tippecanoe County. Comments by the bar and public shall be received until July 1, 2006. The proposals will be adopted, modified, or rejected by July 31, 2006.

Rules requiring approval by the Indiana Supreme Court will be submitted to that court by August 1, 2006. The rules included in this proposal which require Indiana Supreme Court approval are **LR79-AR1(E)-1**, which provides for the assignment of criminal cases pursuant to Administrative Rule 1(E), and **LR79-AR15-1**, which regards court reporter services pursuant to Administrative Rule 15.

Publication of this Notice is made pursuant to the Second Amended Schedule for All Local Rules dated November 30, 2005, set by the Indiana Supreme Court, Division of State Court Administration, by providing this Notice in digital format to the Tippecanoe County Clerk and to the Division of State Court Administration. The Tippecanoe County Clerk is directed to post this Notice in the county clerk's office and on the website maintained for Tippecanoe County government. Notice is also given to the President, officers, and members of the Tippecanoe County Bar Association.

Any modification of the Local Rules of the courts of Tippecanoe County, as set forth in the attached documents, shall be effective January 1, 2007.

**ORDER FOR ADOPTION OF LOCAL RULES FOR THE
COURTS OF TIPPECANOE COUNTY**

Pursuant to the Order of the Indiana Supreme Court and Administrative Rule 1(E) of the Indiana Court Rules, the undersigned judges of Tippecanoe County adopt the following local rules of court.

SO ORDERED THIS _____ DAY OF _____ 2006.

Donald L. Daniel, Circuit Court

Donald C. Johnson, Superior Court

Thomas H. Busch, Superior Court No. 2

Loretta H. Rush, Superior Court No. 3

Gregory J. Donat, Superior Court No. 4

Les A. Meade, Superior Court No. 5

Michael A. Morrissey, Superior Court 6

TIPPECANOE COUNTY LOCAL RULES OF COURT

LR79-AR1(E)-1 County Caseload Plan

This Rule incorporates by reference the current caseload allocation plan for Tippecanoe County, as approved by the Indiana Supreme Court. The plan is subject to review every two (2) years. As of the date of the Order adopting these Rules, and subject to any modifications which may subsequently be made, the plan reads as follows:

1. All cases wherein the most serious charge alleged is Murder, a Class A, B, or C felony and those Class D felonies set forth in paragraph 2 below shall be assigned to Tippecanoe Circuit Court, Superior Court of Tippecanoe County, and Superior Court No. 2 of Tippecanoe County, on a random basis according to the following ratio:

<u>Court</u>	<u>Ratio</u>
Tippecanoe Circuit Court	2
Superior Court of Tippecanoe County	4
Superior Court No. 2 of Tippecanoe County	4

2. Class D felony cases assigned to Tippecanoe Circuit Court, Superior Court of Tippecanoe County, and Superior Court No. 2 of Tippecanoe County are as follows:

I.C. 35-42-2-1 (a) (2) (B)	Battery on a Child
I.C. 35-42-4-4 (b) (1) and (2)	Possession of Child Pornography; Child Exploitation
I.C. 35-42-4-5 (a)	Vicarious Sexual Gratification
I.C. 35-42-4-6	Child Solicitation
I.C. 35-42-4-7	Child Seduction
I.C. 35-42-4-9 (b)	Sexual Misconduct With a Minor
I.C. 35-49-3-3	Dissemination of Matter Harmful to Minors
I.C. 35-46-1-4	Neglect of a Dependent
I.C. 35-43-1-1 (d)	Arson
I.C. 35-48-4-4	Dealing in Schedule V Controlled Substance
I.C. 35-48-4-6	Possession of Cocaine or Narcotic Drug (not including residual amounts in paraphernalia, unless any habitual enhancement applies)
I.C. 35-48-4-7	Possession of Controlled Substances, Schedule I, II, III, IV, or V with

	more than 10 pills/or dosage units alleged
I.C. 35-48-4-10 (b)	Dealing in Marijuana
I.C. 35-48-4-11	Possession of Marijuana, with more than 50 grams alleged
I.C. 35-48-4-11	Possession of Marijuana with a prior conviction if any habitual enhancement is applicable

3. Where it is alleged that defendants, jointly commit a crime or crimes, their cases shall be filed together in the same court.
4. Superior Court No. 3 of Tippecanoe County exercises juvenile jurisdiction and will not receive filings of felony ~~and~~ or misdemeanor cases. A case wherein juvenile jurisdiction is waived may be assigned to a court by agreement of the parties. In the absence of such agreement, the case shall be filed in accordance with the Local Rule on ~~Case~~ Assignments of Criminal Cases.
5. All Class D felonies, misdemeanors, and infractions alleging a violation of Indiana Code Title 9, Traffic Code, shall be assigned to Superior Court No. 6 of Tippecanoe County.
6. All Class D felonies, misdemeanors, and infractions alleging violation of Indiana Code Title 35, Article, Controlled Substances, and not set forth in paragraph 2 above, shall be filed in Superior Court No. 4 of Tippecanoe County. Glue Sniffing in violation of Indiana Code 35-46-6-2 shall be filed in Superior Court No. 4 of Tippecanoe County.
7. All remaining Class D felonies, misdemeanors, and infraction cases not specifically set forth above shall be filed in Superior Court No. 5 of Tippecanoe County.

~~TRANSFER~~

8. A judge, by appropriate order ~~entered on the Record of Judgments and Order~~, may transfer and reassign to any other court of record in the county, any pending case, subject to acceptance by the receiving court.
9. A case transferred to Tippecanoe County by reason of change of venue from another county may be assigned to a court by agreement of the parties. In the absence of such an agreement, the case shall be filed in accordance with this Local Rule on Case Assignments.

~~REFILING AND SUBSEQUENT FILINGS~~

10. When the State of Indiana dismisses a case and chooses to re-file that case, the case shall be assigned to the court from which dismissal was taken.

REASSIGNMENT

11. In the event a change of judge is granted pursuant to Indiana Criminal Rule 12 or it becomes necessary to assign another judge in any felony or misdemeanor proceeding, the case shall be returned to the Clerk of court for random selection of another court from among all the courts in Tippecanoe County. On selection, the case shall be reassigned by the Clerk to the selected court.

APPOINTMENT OF SPECIAL JUDGE

12. In the event no judge is available for assignment or reassignment of a felony or a misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a special judge, the presiding judge may request the Indiana Supreme Court for such appointment.

LR79-TR 5(E)-2 Filing

- A. Flat filing. All papers presented for filing with the Clerk or Court shall be flat and unfolded.
- B. Number of copies. All Orders submitted to the Court shall be in sufficient number so that the original and one copy may be retained by the clerk and a copy mailed to each party.
- C. Proposed orders required. The moving party, unless the Court directs otherwise, shall furnish the Court with proposed Orders in the following matters: motions for enlargement of time, for continuance, for default or default judgment, to compel discovery, for restraining order or injunction, for immediate possession of real estate or personal property, for appointment of receiver, for findings of fact and conclusions of law, for dismissal of an action, for judgment in a collection matter or mortgage or lien foreclosure, and in such other matters as the Court directs.

LR79-TR 5(E)-3 Motion Hour

If the Court conducts motion hour, the same shall be for the consideration of routine matters, procedural motions, setting dates for trials, pre-trial conferences, and hearings and for other matters which can ordinarily be heard without evidence or argument. Attorneys shall

notify opposing counsel in advance before approaching the Judge at motion hour for any matter requiring action to be taken by the Court.

LR79-TR 6(B)-4 Extensions of Time

(1) Initial Extension. In a civil action where a party desires an initial 30 – day extension of time to file a responsive pleading or to respond to a discovery request, the party shall contact opposing counsel before the due date and solicit agreement to the extension. If there is no objection or opposing counsel cannot with due diligence be reached, the party seeking the extension shall file a notice with the Court reciting the lack of objection to the extension or that opposing counsel could not with due diligence be reached. No further filings with the Court nor action by the Court shall be required for the extension. If opposing counsel objects to the request for extension, the party seeking the extension shall file a formal motion for such extension and shall recite in the motion the efforts to obtain agreement.

(2) Other extensions. Any other request for an extension of time, unless made in open Court or at a conference, shall be made by written motion. If opposing counsel objects to the request for extension, the party seeking the extension shall recite in the motion the effort to obtain agreement; or recite that there is no objection.

(3) Due dates. Any notice or motion filed pursuant to this rule shall state the date such response was initially due and the date on which the response will be due after the extension.

LR79-TR73-5 Telephone Conferencing

A. Purpose. To expedite the Court's business, the Court encourages telephone conferencing for the hearing of motions, for pre-trial and status conferences, and for other matters which may reasonably be conducted by telephone.

B. Hearing on motions or status conferences. Within five (5) days after receipt of notice of hearing on a motion, any party or attorney may request that the Court conduct the hearing by telephone conference with the Court. If the Court sets the hearing for telephone conference, the party requesting the telephone conference shall arrange and place the call, unless otherwise ordered by the Court.

LR79-TR12-6 Motions

A. Applicability. This rule shall apply to motions under Trial Rule 12, contested motions to continue hearings or trials, discovery motions, and any other contested motions.

B. Briefs and Memoranda. Unless the procedure for a motion is governed otherwise by the Indiana Rules of Trial Procedure, an adverse party shall have fifteen (15) days after service of a motion in which to file a response, and the moving party shall have seven (7) days in which to file a reply. The court may in its discretion shorten or lengthen the time for a response or a reply. Failure to file a response or reply within the prescribed time shall subject such motions to summary ruling. Any party may request the court hold a hearing on a motion.

C. Notice of hearing. If the movant procures a date for hearing on a motion, the movant shall promptly give notice to all adverse parties of the date and time of such scheduled hearing.

LR79-TR-53.5-7 Continuances

Before requesting a continuance of a matter, the moving party shall confer with the other parties to determine any objections and dates for rescheduling when all parties are available. Such objections and alternative dates shall be reported in the motion for continuance.

LR79-TR-3.1-8 Withdrawal of Appearance

Motions to withdraw an appearance shall be in writing with an attached notice to the client of intention to withdraw. The notice to the client of the intention to withdraw shall include an explanation to the client of (i) the present status of the case; (ii) the dates of scheduled hearings or other pending matters in the case; and (iii) the potential consequences to the client's case resulting from failure of the client to act promptly or to secure new counsel.

LR79-TR 79-9 Withdrawal of Original Records

Original pleadings, papers, exhibits or other official materials in the custody of the Clerk, reporter or other officer of the Court shall not be withdrawn from the officer having custody thereof except upon (i) the Order of the Judge of the Court where the record is held, and (ii) upon leaving a proper receipt with the Clerk, reporter or officer.

RULES
OF
~~TIPPECANOE CIRCUIT COURT~~
~~SUPERIOR COURT OF TIPPECANOE COUNTY~~
~~SUPERIOR COURT NO. 2 OF TIPPECANOE COUNTY~~

Effective January 1, 1970

LIST OF RULES

<u>Rule No.</u>	<u>Title</u>
1	Papers To Be Filed With Clerk
2	Papers To Be Filed With Judge In Motion Hour
3	Motion Hour
4	Service of Pleadings
5	Number Of Copies To Be Filed
6	Motion To Enlarge Time To Plead
7	Suit And Support Day
8	Motion Hearing Day
9	Pre-Trial Conferences
10	Setting Case For Trial Or Pre-Trial Conference-Conditions Precedent
11	Setting Case For Trial Or Pre-Trial Conference--Manner Of Setting
12	Briefs
13	Motions And Objections Regarding Discovery
14	Interrogatories
15	Temporary Restraining Orders (as amended)
16	Withdrawal of Original Records, Papers and Exhibit
17	Opening of Depositions
18	Attorneys as Bail, Surety Or Bondsmen
19	Proceedings Supplementary To Execution

RULE 1

Papers To be Filed With The Clerk

Any pleading, motion, or other paper which does not require immediate action by the judge shall be filed with the clerk. Examples of papers which should normally be filed with the clerk are as follows (this list is illustrative rather than exhaustive): Complaints, Answers, Counterclaims; replies, cross-claims, answers to cross-claims, third party complaints, answers to third party complaints, motions under Trial Rule 12, Indiana Rules of Procedure, interrogatories, motions for production and responses thereto under Trial Rule 34, requests for admissions and objections thereto under Trial Rule 36, demands for jury trial, and motions to dismiss and stipulations for dismissal under Trial Rule 41 (A)(1).

RULE 2

Papers To Be Filed With Judge In Motion Hour

~~Any pleading, motion, petition, or other papers which demand immediate action by the judge, either by way of an immediate ruling, or of setting for hearing, or of a necessary finding or order which must be made by the judge before process can issue, shall either be filed directly with the judge during motion hour or may be filed with the clerk and brought to the attention of the judge at the earliest motion hour thereafter. Emergency matters falling under this classification may be filed with the judge or brought to his attention outside of motion hour whenever he is available to consider them.~~

~~Examples of papers which should be filed with the judge or brought promptly before him after filing with the clerk are as follows (this list is illustrative rather than exhaustive); Proceedings supplementary to execution, applications for temporary injunctions where a hearing is to be set, applications for temporary restraining orders without notice, petitions for citations for contempt of court, motions for summary judgment, motions to enlarge time to plead (see rule 6 of this court), *pendente lite* petitions for custody, support and attorneys fees, petitions for modification of custody, visitation, or support, whether the modification sought is of a final decree or of a *pendente lite* order, motions to fix amount of bond under Burns Ind. Stat. Sec. 2-4727, motions to dismiss under Trial Rule 41 (A)(2), motions for physical examination under Trial Rule 35, and motions for order compelling discovery under Trial Rule 37.~~

RULE 3

Motion Hour

~~There shall be a motion hour from 9:00 to 9:30 A.M. every day that court is in session. The judge of each court shall elect whether to hold a motion hour for that court. If a judge so elects, there shall be a Motion Hour every day that court is in session at a time to be fixed by the judge. During motion hour the judge shall be available either in open court or in chambers for the purpose of receiving filings under rule 2 of this Court and of setting dates for trials, pre-trial conferences, hearings, and arraignments, for hearing motions to enlarge time to plead under rule 6 of this Court, applications for temporary restraining orders, for entering agreed orders and judgments, and for other matters which can normally be heard ex parte or without the necessity of hearing evidence or argument.~~

RULE 4

Service of Pleadings

~~Counsel in each case shall, without exception, comply with and adhere to Trial Rule 5 of the Indiana Rules of Procedure with respect to the service of pleadings, motions and other documents upon opposing counsel.~~

RULE 5

Number of Copies To Be Filed

~~All orders submitted to the court shall be in sufficient number in order that the original and one copy may be retained by the clerk and a copy may be mailed to each affected party. An original only of all briefs and motions shall be filed except when the Court otherwise directs.~~

RULE 6

Motion To Enlarge Time To Plead

——— A motion to enlarge time to plead under Trial Rule 6 (B)(1) of the Indiana Rules of Procedure may be made by either written or oral motion, and may be made without prior notice to opposing parties. It shall not be made more than ten days before the pleading in question is due. The Court for good cause shown will normally grant an enlargement of not more than three weeks thirty (30) days without prior notice to opposing parties. An opposing party desiring to oppose an enlargement of time to plead shall file his written objections thereto, stating specifically the grounds thereof, more than ten days before the pleading in question is due. If such objections are filed, the court shall consider them in ruling on the motion for enlargement, but no hearing shall be necessary.

RULE 7

Suit And Support Day

——— Suit and support hearings will be held from 9:30 A.M. until 12:00 noon at a time to be fixed by the court on the first and third Mondays mornings of each month in Superior Court, and on the second and fourth Mondays mornings of each month in Superior Court No. 2, and every Monday morning in Circuit Court. The matters heard at such time will include *pendente lite* petitions for custody, support, attorneys fees, and injunctions in domestic relations cases, and also petitions for modification of custody, support, or visitation orders, and citations for contempt of court in domestic relations cases, whether the modification sought or the contempt charged is of a final decree or of a *pendente lite* order.

——— Where there is insufficient time to conclude such hearing on Monday morning, it may be continued over into Monday afternoon, provided time is then available; otherwise it may be continued to any available date.

RULE 8

Motion Hearing Day

——— Motion hearing day shall be between 1:30 and 4:30 P.M. of at a time fixed by the court on the first and third Mondays of each month in Superior Court and on the second and fourth Mondays of each month in Circuit Court and in Superior Court No. 2.

——— Such time shall be devoted to hearings on default judgments, proceedings supplementary to execution, and all motions which require hearing by the court, including but not limited to the following: motions for summary judgment, motions to dismiss under Trial Rule 41 (A)(2); motions for order for physical examination under Trial Rule 35, and motions for order compelling discovery under Trial Rule 37.

RULE 9

Pre-Trial Conferences

——— A pre-trial conference shall be held in any of the following cases:

——— (a) In all civil cases, triable by jury where there has been a jury demand, unless the case

~~was at issue before January 1, 1970.~~

~~—— (b) In any civil case where one of the parties requests it at the time of the setting of the case for trial or prior thereto.~~

~~—— (c) In any other civil case where ordered by the court.~~

RULE 10

Setting Case for Trial or Pre-Trial Conference -- Conditions Precedent

~~—— No order shall be made setting a case for trial, and no pre-trial conference shall be held, until discovery is complete and the issues are closed, but the court in its discretion may extend beyond six months the time for completion of discovery in cases where it is not reasonably possible to complete discovery within six months.~~

~~—— Where necessary discovery is actually completed or clearly can be completed in less than such a six month period, or where no discovery is contemplated by the parties, the fact that such six month period has not elapsed shall not prevent the case from being assigned for trial or for pretrial conference. A party or attorney objecting to setting of a trial or of a pre-trial conference on the ground that discovery is not yet complete may be required by the court to support his objection by filing an affidavit showing the extent of discovery contemplated, the necessity therefor, and the amount of time reasonably expected to be consumed thereby.~~

~~—— Any mediation shall be completed prior to the pre-trial conference.~~

RULE 11

Setting case For Trial Or Pre-Trial Conference -- Manner of Setting

~~After a case is at issue, any party thereto may move during motion hour to have the case set for trial or for pretrial conference. The attorneys for all of the parties must be present, except:~~

~~(1) — where the moving attorney informs the court that he has made a reasonable effort to get opposing counsel to meet him in court for the purpose and opposing counsel has failed or refused to do so; or~~

~~(2) — where opposing counsel does not have his office in Tippecanoe County.~~

~~It shall not be necessary for a party who is not represented by counsel to be present for such setting.~~

~~—— Where a case is set for trial or for pre-trial conference in the absence of a party or his attorney, and he is unable to comply with such setting or has some other good reason for vacating the same, he shall so notify the court and move to have such date set aside at the earliest possible motion hour after receiving notice thereof.~~

RULE 12

Briefs

~~—— Motions to dismiss under Trial Rule 12 (B) of the Indiana Rules of Procedure, and for judgment on the pleadings may be accompanied by a brief and proof of service upon opposing counsel of record. An adverse party shall have fifteen (15) days after service of the movant's brief to file an answer brief if he desires to do so.~~

~~———— Failure to file briefs within the time prescribed shall subject such motions to summary ruling unless any party who has timely filed a brief requests a hearing, which may then be granted in the discretion of the court.~~

~~RULE 13~~

~~Motions And Objections Regarding Discovery~~

~~———— To curtail undue delay in the administration of justice, the court shall refuse to rule on any and all motions for and objections to discovery and production of documents under Trial Rules 27 through 37 of the Indiana Rules of Procedure unless moving counsel shall first advise the court in writing that after personal consultation and sincere attempts to resolve differences, they are unable to reach an accord. This statement shall recite, in addition, the date, time and place of such conference and the names of parties participating therein. If counsel for any party advises the court in writing that opposing counsel has refused or delayed meeting and discussion of the problems covered in this rule, then the court may take such action as is appropriate to avoid delay.~~

~~RULE 14~~

~~Interrogatories~~

~~———— (a) Answers or objections to interrogatories under Trial Rule 33 of the Indiana Rules of Procedure shall set forth in full the interrogatory being answered or objected to immediately preceding the answer or objection.~~

~~———— (b) No mimeographed or otherwise duplicated forms containing interrogatories shall be filed or served upon a party unless all interrogatories on such forms are consecutively numbered and applicable to the case in which the same are filed and served. Intent and purpose of this rule is to prohibit the filing of mimeographed or otherwise duplicated forms of interrogatories except where the nature of the case or the number of the parties makes the use of such forms necessary and feasible.~~

~~RULE 15~~

~~Temporary Restraining Orders~~

~~———— In any case in which a temporary restraining order without notice is sought, counsel for the moving party shall prepare and submit to the court the form of order requested, which shall include all special findings in support of such order as required by Trial Rule 52 and Trial Rule 65 of the Indiana Rules of Procedure. If such order is to be extended beyond its original term under Trial Rule 65 (B) the special reasons for such extension shall be set forth in the order of extension, which also shall be furnished by counsel.~~

~~———— The standard form temporary restraining orders formerly issued in domestic relations cases are no longer valid under Trial Rule 65 (B), and will no longer be issued.~~

~~———— (a) In divorce and separate maintenance cases, the following form of temporary restraining order, or such language as may subsequently be specified in Trial Rule 65, without notice will be issued upon affidavit of the party applying as to the necessity therefor.~~

~~"It is ordered that the plaintiff and the defendant be each restrained and prohibited from molesting or interfering with the other, and from selling, damaging, encumbering, or otherwise disposing of any property, real or personal, belonging to either of them or to both jointly, and from spending, depleting, or otherwise disposing of any money or any bank or savings account for purposes other than ordinary business and living expenses and meeting current obligations to existing creditors. Such temporary restraining order shall remain in effect until further order of this court."~~

~~If the court finds that an order shall be entered under this paragraph, the court may enjoin both parties from:~~

~~(a) transferring, encumbering, concealing, selling or otherwise disposing of any joint property of the parties or asset of the marriage except in the usual course of business or for the necessities of life, without the written consent of the parties or the permission of the court; and/or~~

~~(b) removing any child of the parties then residing in the State of Indiana from the State with the intent to deprive the court of jurisdiction over such child without the prior written consent of all parties or the permission of the court.~~

~~It will not be necessary for the party applying to furnish an order. Since all restraints apply equally to both parties, it will be necessary for the attorney of the party applying to advise his client of this fact.~~

~~If the party applying wishes an order differing in any respect from the above, he shall prepare and submit to the court the form of order requested, embodying not only the restraining order, but the submission, finding, setting for hearing, and directions for issuance and service of notice.~~

~~Ordinarily no order will be granted unless the restraints therein apply equally to both parties.~~

~~(b) In all other cases in which a temporary restraining order is sought, counsel for the moving party shall prepare and submit to the court the form of order requested, which shall include all special findings in support of such order as required by Trial Rule 52 and Trial Rule 65 of the Indiana Rules of Procedure. If such order is to be extended beyond its original term under Trial Rule 65 (B) the special reasons for such extension shall be set forth in the order of extension, which also shall be furnished by counsel.~~

RULE 16

Withdrawal Of Original

Records, Papers, and Exhibits

~~No person shall withdraw any original pleading, paper record, model, or exhibit from the custody of the clerk, reporter, or other officer of this court having custody thereof except (1) upon order of a judge of this court and (2) upon leaving a proper receipt with the clerk, reporter or officer.~~

RULE 17

Opening Of Depositions

— Unless otherwise ordered by the court, the clerk, at any time after a deposition is filed, shall open such deposition upon request of the judge, or a party or his attorney, first endorsing on the back thereof at the time of opening the name of the person at whose instance the deposition is opened and the date of opening.

RULE 18

Attorneys As Bail, Surety Or Bondsmen

— Attorneys shall not become bail, surety or bondsmen for their clients in any cause, matter or proceeding in this court.

RULE 19

Proceedings Supplementary To Execution

— (a) Filing Fee. Where proceedings supplementary to execution are brought in the court in which the judgment was rendered, the plaintiff shall not be required to pay any filing fee.

— (b) Manner of Service. Appearance Remains in Effect After Judgment. Where, at the time judgment was rendered, there was no appearance to the action, either personally or by counsel on behalf of the judgment-debtor who is to be brought in on proceedings supplementary to execution, he shall be notified under Trial Rule 4 of the Indiana Rules of Procedure. In all other cases he shall be notified under Trial Rule 5. The garnishee-defendant shall always be notified under Trial Rule 4 until such time as an appearance is entered on his behalf.

— Where, prior to the rendition of judgment, a defendant has appeared either personally or by counsel, such appearance shall remain in effect after the rendition of judgment until judgment is satisfied, subject to the right of counsel to withdraw his appearance as provided in this rule.

— (c) Withdrawal of Appearance. Counsel shall have the right to withdraw his appearance for a defendant after judgment Provided he presents proof to the court that he has:

— (1) Furnished the clerk with the present correct address of the defendant.

— (2) Notified the defendant in writing:

— (a) That he is withdrawing his appearance as counsel for the defendant.

— (b) That defendant remains subject to the jurisdiction of the court for the purpose of satisfying the judgment until the judgment is completely satisfied.

— (c) That he, counsel, has furnished the clerk of the court where judgment was rendered with the defendant's present address (specifically setting out the address furnished) and that it will in the future be the responsibility of the defendant to notify the clerk of any corrections or changes of address.

— (d) Praecipe for Notice. Issuance of Notice. Where service is to be had under either Trial Rule 4 or Trial Rule 5 of the Indiana Rules of Procedure on either, the judgment-debtor or the garnishee-defendant or both, the plaintiff shall endorse a praecipe on his petition, specifying the manner of service on each.

— After the court has made its order for the appearance of the judgment-debtor, or the answering of interrogatories by the garnishee-defendant, or both, the clerk shall cause service to be made of the order to appear, together with a copy of the petition, upon the judgment-debtor in

~~the manner specified in the praecipe, and of the order to answer interrogatories, together with a copy of the petition and a copy of the interrogatories;~~

~~_____ (e) Papers to be Furnished.~~

~~_____ By the plaintiff.~~

~~_____ (1) Petitions. The plaintiff should file an original, plus a sufficient number of copies for service in the manner designated by him.~~

~~_____ (2) Interrogatories. Where a garnishee-defendant is brought in, the plaintiff will need to furnish a sufficient number of copies for service in the manner designated by him, plus a copy for the court. All interrogatories shall be prepared to be affirmed by the garnishee-defendant rather than sworn to.~~

~~_____ By the Court.~~

~~_____ (3) Orders. The plaintiff will not need to prepare or furnish the order. The court will use a standard order.~~

~~_____ (4) Notices. The plaintiff will not need to Prepare or furnish notice. The court will furnish standard forms of notice for both the judgment-debtor and the garnishee-defendant, which will be prepared by the clerk.~~

TIPPECANOE CIRCUIT COURT PROBATE RULES

LR79-PR-1 SCOPE AND TITLE

- 1.1 These Rules shall apply in the Tippecanoe Circuit Court (hereafter referenced as “the Court”) and shall be applicable as guidelines in all probate matters.
- 1.2 These Rules are intended to be interpreted consistent with State statutes and any applicable regulations and Indiana Common Law as now existing and as may hereafter develop.
- 1.3 These Rules shall be known as the “Tippecanoe Circuit Court Probate Rules” and are occasionally referenced herein as “these rules”

LR79-PR-2 ACCESS TO COURT AND REPRESENTATION

- 2.1 The Court maintains regular business hours of 8:00 a.m – Noon and 1:00 p.m.-4:30 p.m., Monday through Friday, and is open to the public. Motion Hour is conducted each day from 8:30 -9::00 a.m., unless pre-empted due to a trial. Motion Hour is the time set aside by the Court to schedule contested hearings and consider routine motions. Counsel is encouraged to contact opposing counsel to arrange a mutually agreeable date and time to meet at Motion Hour rather than ask the court to order counsel to appear. Matters relevant to these rules (such as estates, guardianships, and adoptions) are complicated proceedings normally requiring the assistance of an attorney. Therefore, these Rules are adopted in the belief that an experienced attorney will represent parties before the Court. The Court and its employees can not give legal advice or refer unrepresented persons to attorneys.
- 2.2 All probate filings shall be typewritten or word processed and shall be consistent with these rules. Any deviation from these rules shall be brought to the Court’s attention when any document is submitted. When documents are filed by mail, or left with the Court for filing, a self-addressed, stamped envelope shall be included for return of documents unless other arrangements for document return are made.
- 2.3 Routine pleadings such as Inventories, Inheritance Tax Schedules, and Final Reports may be filed with the Probate Commissioner for transmittal to the Court. Pro-forma hearings may also be set with the Commissioner.

LR79-PR-3 NOTICE

- 3.1 Whenever notice by publication or written notice by U.S. Mail is required to be given, the attorney shall prepare such notice and mailing envelopes (including postage) and shall ensure that such notice is properly published or served. In all respects, the notice

shall comply with all statutory requirements. It shall be the attorney's responsibility to ascertain and provide adequate proof that notice was properly served prior to bringing a matter to Court or that notice will be properly served as part of any proceeding.

- 3.2 Copies of petitions shall be sent to interested parties along with all notices of hearings.
- 3.3 Notice of the opening of an estate shall be sent by First Class United States Mail to all reasonably ascertainable creditors; however, the use of certified mail, return receipt requested, to serve such notice is recommended.
- 3.4 Notice of the hearing to be held on a Petition to determine if an Estate is insolvent shall be served on all interested parties, including the local representative of the Inheritance Tax Division of the Indiana Department of Revenue.

LR79-PR-4 BONDS

- 4.1 Bonds are required by statute in some circumstances. If discretionary, the Court intends to exercise that discretion for the protection of creditors, heirs, legatees or devisees, or other interested individuals or entities.
- 4.2 Existing law requiring bond includes circumstances where the Will requires the execution and filing of a bond or the Court finds that a bond is necessary (see I.C. 29-1-11-1).
- 4.3 A non-resident individual or corporate fiduciary serving jointly with a resident personal representative or a non-resident individual qualifying to serve as a personal representative or a personal representative who becomes a non-resident of Indiana (see I.C. 29-1-10-1) requires that a bond be filed.
- 4.4 If the filing or amount of a bond is discretionary with the Court, the Court will consider factors such as provisions of decedent's will and any consent filed by a creditor or heir, or other interested party regarding the amount or conditions of bond.

LR79-PR-5 INVENTORY

- 5.1 In supervised and unsupervised estates the personal representative shall within two months after the appointment of a personal representative furnish a copy of an Inventory complying with the requirements of I.C. 29-1-7.5-3.2 or I.C. 29-1-12-1 et. seq. to interested persons who request it unless the original of the Inventory or any supplement or amendment to it is filed with the court.

LR79-PR-6 CONFIDENTIALITY

- 6.1 Most probate actions are matters of public record and the files thereof are open to review by the general public, subject to excluded and confidential information such as Indiana Tax Returns and reports thereon. Unless required by law or dictated by circumstances of the case, filings with the court need not include dates of birth, social security numbers, or other information which is not necessary for probate administration.

LR79-PR-7 TIME GUIDELINES

- 7.1 Orderly administration of estates requires at a minimum compliance with notice requirements, such as notice to creditors and preparing an inventory and timely preparation of an inheritance tax return to entitle the estate to a discount for payment of inheritance tax within nine months of a decedent's death. Unless there is unavoidable delay in estate administration related to sale or making distribution of assets like real estate or a unique asset owned by a decedent or tax related matters such as awaiting an inheritance tax or estate tax closing letter, most estates should be concluded within one year.
- 7.2 Closing Estates:
- 7.21 Unsupervised Administration: Unless otherwise ordered by Court in a particular proceeding, closing statements complying with requirements of I.C. 29-1-7.5-4 are sufficient to result in closing an estate. Any objections thereto will be scheduled for hearing. No orders approving closing statements will routinely be provided.
- 7.22 Supervised Estates: As part of the closing process, the Court will accept Affidavits In Lieu Of Vouchers.

LR79-PR-8 GUARDIANSHIPS

- 8.1 In guardianship matters seeking to declare an adult incapacitated for any reason, the incapacitated person shall be present at the hearing or sufficient evidence shall be presented showing that notice of the hearing was given and that the incapacitated person is unable to appear.
- 8.2 In guardianship matters seeking to declare an adult incapacitated for any reason, a report or similar statement or document from the doctor treating the alleged incapacitated person, or such additional evidence as the Court shall require, shall be presented to the Court at the time the petition is filed or on the hearing date. No determination will be made without a supporting medical report or other evidence clearly demonstrating the reasons supporting the need for a guardianship.

- 8.3 An inventory of property within a guardian's control shall be filed within ninety (90) days after the guardian's appointment or within thirty (30) days of the appointment of a temporary guardian. A verified account of the guardian's administration shall be filed as required by statute. In addition to the information required by law, the Court requires changes in the protected person's physical or mental condition, place of residence, and the financial status of the guardianship estate to be included in any account of administration. The current report shall also contain information indicating that the living arrangements for the incapacitated person are appropriate.
- 8.4 In every petition for the appointment of a guardian of the person of a minor child, the following information shall be given:
- 8.4.1 The child's present address.
- 8.4.2 The places where the child has lived within the past two years and the names and present addresses of persons with whom the child has lived during that period.
- 8.4.3 Whether, to Petitioner's knowledge, any other litigation is pending concerning the custody of the child in this or any other state.
- 8.4.4 Whether, to Petitioner's knowledge, any person not a party to the guardianship proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child.
- 8.5 Nothing herein shall be deemed as amending, superseding or altering the Probate Rules and Regulations promulgated by the Veteran's Administration of the United States of America, and every fiduciary and attorney shall comply with same if applicable.
- 8.6 Other than for routine matters, unless permitted by law, the Guardian shall obtain Court approval prior to taking any action on any financial matter pertaining to carrying out the Guardian's duties and responsibilities for the protected person.

LR79-PR-9 PRINCIPLES APPLICABLE TO FEE DETERMINATIONS

- 9.1 Attorney fees. Although fee guidelines have been promulgated by the Court in probate matters, those guidelines do not assure that all fees allowed by the Court will adhere to them and other factors may be considered by the Court in making any final determination which may be required. The Court may consider any of the following:
- 9.1.1 The skill required to perform services properly in probate matters; the attorney's expertise in probate matters; the time and labor required; the novelty, complexity, or difficulty of the questions involved; and a determination as to how much of the attorney's time was devoted to legal matters and how much of it was devoted to

ministerial functions.

- 9.1.2 The nature and extent of the responsibilities assumed by the attorney and the results obtained; the identity of the personal representative; the character of the probate and non-probate transferred assets; and whether real estate or other assets are located outside of the State of Indiana.
 - 9.1.3 The sufficiency of assets properly available to pay for legal services, and whether the attorney's duties are expanded by the existence of non-probate assets because of their inclusion for tax purposes, either federal or state.
 - 9.1.4 The timeliness with which the necessary services are performed consistent with statutory requirements; whether the attorney was engaged in a timely fashion or was required to perform services close to deadlines through no fault of such attorney; the Court's rules of procedure; and the Rules of Professional Conduct applicable thereto.
In considering all of these factors, all attorneys are urged to discuss their fee and that of the personal representative at the time they are retained in all probate matters. Further, the parties are urged to enter into a written engagement agreement which documents their understandings in this regard.
- 9.2 Administration-There are two methods by which fees are typically determined. One is on an hourly basis based upon the amount of time spent by the attorney in handling the matter. The other is based upon a percentage of the size of the gross estate.
- 9.2.1 Hourly Method: The amount of an hourly fee can vary considerably. Among the factors taken into consideration in arriving at an hourly rate are the considerations listed in the paragraphs of 9.1 above. Additional considerations include the nature and length of the professional relationship between the attorney and the client as well as the experience, reputation and ability of the attorney performing the services.
 - 9.2.2 Percentage Method: In this method the fees are computed based upon the size of the gross estate. The following are typically normal services : Opening of the Estate; qualifying the Personal Representative; preparing the Inventory; paying claims; collecting assets; preparing and filing the Indiana Inheritance Tax Return IH-6; obtaining a Court Order IH-9 thereon, and paying Inheritance taxes; preparing and filing the Final Report or Closing Statement; obtaining an Order approving same; distributing assets as required; obtaining discharge of the Personal Representative; and preparing and serving all notices on interested parties and readily ascertainable creditors throughout the proceedings. Fees herein shall not include services for preparation or filing of federal or state income tax returns 1040, IT-40, 1041, IT-41, federal form 709, or forms relating to employment of third persons by the decedent or estate. This list shall not be considered to be exclusive. Percentage fees shall be computed on the Gross

Estate as defined for purposes of the Indiana Inheritance Tax. The maximum fee for these normal services is computed as follows:

Up to \$ 100,000, not to exceed	6%
Next \$ 200,000, not to exceed.....	4%
Next \$ 700,000, not to exceed.....	3%
Excess over \$ 1,000,000, not to exceed.....	1%

In addition to the normal services described above, many times additional services are necessary, for which an additional fee is appropriate. Such additional services and the maximum related fees may include for example the following:

A. Sale of Real Estate

Minimum fee of \$500.00 except that there shall be a fee no greater than 2½% (.025) of the gross sales price of the real estate where no real estate professional receives a commission

B. Federal Estate Tax Return Form 706

Basic Fee-the greater of \$3,000.00 or .15% (.0015) of the total gross estate as shown on Form 706, Part 2, Line 1, Page 1

Additional fee for non-probate assets....1.5% (.015)

- 9.3 Miscellaneous-Fees shall be hourly for the following services: Spreading Will of Record, small estate settlement procedure, defending a will, construing a will, contesting claims, adjusting tax matters, any contested hearing, petition for instructions, heirship determination, and fees to continue a business or to generate additional income for the estate.

9.4 Wrongful Death Administration

Fees not to exceed:

Settlement prior to filing.....	25%
Settlement after filing and prior to Trial.....	33 1/3%
Trial.....	40%
Appeal, or extra work.....	50%

The above fee schedule may be increased under circumstances where the litigation is complex and the potential for recovery is difficult, provided one of the following has occurred:

- A. All of the beneficiaries who will participate in the wrongful death recovery, or their legal representative(s), sign a written contingent fee contract providing for a fee greater than above.
- B. The Court, having probate jurisdiction of the estate, approves a contingent fee contract providing for a fee greater than the above.

- 9.5 General-Except as otherwise specified above, fees in other proceedings involving

guardianship and docketed trusts and related matters, will be computed on a hourly basis. Hourly fee services shall be rendered with specificity and may include: sale of personal property, sale of real property, partial distributions, contesting claims, adjusting tax matters, any contested hearing, petition for instructions, heirship determination, and fees to continue a business or to generate additional income for the trust or guardianship.

9.6 Personal Representative Fees

9.6.1 Professional: Their applicable reasonable rate to be reviewed in light of all prevailing circumstances.

9.6.2 Non-Professional: An amount not in excess of one-half (1/2) of the Attorney's fee, computed via the method being employed by the attorney handling the estate. In determining the amount of the fee, consideration shall be given to the amount of work performed by the personal representative as compared to the attorney as well as the nature of the work performed by the personal representative. For example, the hourly rate to be charged for lawn care or house cleaning should be comparable to typical laborer charges as compared to the rate for negotiating a sale of property or the transfer of securities. Further, although some consideration should be given to the compensation ordinarily earned by a personal representative in their regular employment, the fact that they miss some work in order to perform their duties as personal representative does not automatically justify them to be compensated for such at their normal pay level.

~~RULE 1. SCOPE AND TITLE~~

~~1.1 Scope. These Rules shall apply in the Tippecanoe Circuit Court and shall be applicable in all probate matters.~~

~~1.2 Title. These Rules shall be known as the "Tippecanoe Circuit Court Probate Rules."~~

~~RULE 2. ADOPTIONS~~

~~2.1 Except for good cause shown, no final hearings in adoption proceedings shall take place until the adopting couple (or the birth parent and adoption stepparent) have been married for at least one (1) year.~~

~~2.2 A consent to adoption must be notarized.~~

~~RULE 3. ATTENDANCE OF PROPOSED FIDUCIARIES~~

~~3.1 Non-residents shall either appear or submit an affidavit describing their education, employment and lack of felony convictions.~~

~~RULE 4. REPRESENTATION OF FIDUCIARIES BY COUNSEL~~

~~No personal representative or guardian of an estate may proceed without counsel.~~

~~RULE 5. BONDS IN ESTATES~~

~~5.1 — In every unsupervised and supervised estate the personal representative shall file a corporate surety bond in an amount determined by the Court to be adequate to protect distributees, creditors and taxing authorities except as hereinafter provided.~~

~~5.2 — No surety bond is required where a corporate fiduciary serves as personal representative or co-personal representative.~~

~~5.3 — No surety bond is required in a solvent estate where the decedent's spouse serves as personal representative and is the sole distributee.~~

~~5.4 — No bond is required where a will provides that bond be dispensed with, and the Court is satisfied there is adequate protection for creditors and taxing authorities.~~

~~5.5 — Where the personal representative is a distributee, the bond may be reduced by the personal representative's estimated net distributive share, but the Court may fix a bond adequate to protect other distributees (if any), creditors and taxing authorities.~~

~~5.6 — No bond is required where all distributees consent in writing that the personal representative serve without bond, and the Court, pursuant to a written petition and under circumstances where the Court is satisfied that a bond is not required, the Court may waive the requirement of a bond and permit the issuance of letters upon the filing of an Oath and Acceptance by the personal representative.~~

~~RULE 6. INVENTORY IN ESTATES~~

~~6.1 — In all supervised estates, the personal representative shall file an inventory conforming with the requirements of I.C. 29-1-12-1 within two (2) months of appointment.~~

~~6.2 — In all unsupervised estates, the personal representative shall, within two (2) months of appointment either:~~

~~—— A. file an inventory confirming with the requirements of I.C. 29-1-7.5-3.2(b) or~~

~~—— B. file a verified certification that an inventory conforming with the requirements of I.C. 29-1-7.5-3.2 has been prepared and is available to be furnished to distributees on request.~~

~~RULE 7. WRONGFUL DEATH ESTATES~~

~~7.1 — All proposed wrongful death settlements must be approved by the Court, whether the estate is supervised, unsupervised, or a special administration for the sole purpose of prosecuting the wrongful death claim.~~

~~7.2 — When an estate remains open one (1) year, the personal representative shall file a status report as to any wrongful death claims. If an action is pending, the report shall show the cause number and the Court.~~

~~7.3 — When a judgment has been paid or a petition for approval of settlement is filed in any estate, a petition shall be filed showing proposed distribution, in accordance with I.C. 34-1-1-2. Such petition must set out the proposed distribution to the appropriate statutory damage~~

distributees, such as:

- 1. Expenses of administration;
- 2. Providers of funeral and burial expenses;
- 3. Providers of medical expenses in connection with the last illness of decedent;
- 4. Surviving spouse;
- 5. Dependent children;
- 6. Dependent next of kin (if there is no surviving spouse or dependent children).

A proposed order shall be presented to the Court, ordering distribution in accordance with I.C. 34-1-1-2 and requiring that a final account regarding the wrongful death proceeds be filed within thirty (30) days.

7.4 — I.C. 34-1-1-8 does not provide for the opening of a minor's wrongful death estate.

~~RULE 8. ORDERS AND DEEDS IN UNSUPERVISED ESTATES~~

8.1 — No deeds shall be approved in unsupervised estates.

8.2 — No orders approving closing statements will be signed.

~~RULE 9. TIME FOR CLOSING ESTATES~~

9.1 — Personal representatives shall comply with I.C. 29-1-16-2, which provides as follows:

“Every personal representative shall close the estate as promptly as possible. Unless for good cause shown, the time for filing the final account in the estate shall not exceed one (1) year from the appointment of a personal representative.”

9.2 — Good cause for not closing a supervised estate within one (1) year may be shown by filing an intermediate account within thirty (30) days after the expiration of one (1) year. Such accounting shall comply with the provisions of I.C. 29-1-16-4 and I.C. 29-1-16-6.

9.3 — The intermediate account shall also state facts showing why the estate cannot be closed.

9.4 — Failure to close within one (1) year or show cause why estate cannot be closed may be grounds for removal of the personal representative, pursuant to I.C. 29-1-10-6, and for reduction or forfeiture of personal representative and attorney fees.

9.5 — A closing statement shall be filed within one (1) year after opening an unsupervised estate; provided, however, a status report may be filed in lieu of a closing statement. The status report must indicate why the estate cannot be closed and project a closing date.

~~RULE 10. GUARDIANSHIPS~~

10.1 — In all guardianship or protective proceedings seeking to declare an adult incapacitated, either the person alleged to be incapacitated shall be present at the hearing or the petitioner shall present sufficient medical evidence to establish that a Court appearance would result in injury to the person's health or safety.

10.2 — In all guardianship or protective proceedings seeking to declare an adult incapacitated, the Court's prescribed physician's report form must be completed and presented to the Court at or before the hearing.

10.3 — Pursuant to I.C. 29-3-3-4(a) no guardian of an adult shall be appointed or protective order entered without notice except upon verified allegations that delay may result in immediate and

irreparable injury to the person or loss or damage to property.

10.4—A guardian shall fully comply with the provisions of I.C. 29-3-9-5 regarding inventory of guardianship property.

~~RULE 11. RESTRICTED ACCOUNTS AND BONDS IN GUARDIANSHIPS~~

~~11.1—In guardianships over the estate of a minor, unless otherwise authorized by the Court, all funds shall be placed in a restricted account designating that no principal or interest may be withdrawn without written order of the Tippecanoe Circuit Court.~~

~~11.2—Before the issuance of letters in a guardianship over a minor's estate or the compromise of a minor's claim, the guardian and attorney shall execute an attorney's undertaking form making the attorney personally responsible for the deposit of the funds in a restricted account.~~

~~11.3—Within a time prescribed by the Court a certification by a financial institution that a properly restricted account has been created shall be filed.~~

~~11.4—No surety bond or restricted account is required where a corporate fiduciary serves as guardian or co-guardian of the estate.~~

~~RULE 12. FEES~~

~~12.1—No fees for personal representative, guardians or attorneys shall be paid from any guardianship or supervised estate without prior written order of the Court. Approval of the final account in an estate or a guardian's annual, biennial or final account shall constitute approval of the personal representative, guardian and attorney fees set out in the accounting.~~

~~12.2—Fees in unsupervised estates shall not be subject to Court approval.~~

~~12.3—A petition for fees must be signed or approved in writing by the personal representative or guardian. However, with leave of Court, the attorney for the estate or guardianship may petition the Court for fees.~~

~~12.4—Partial fees in a supervised estate may be requested when:~~

~~———A. An intermediate accounting has been approved, or~~

~~———B. The Court finds upon petition that a tax advantage will result from payment of partial fees. Under exceptional circumstances the Court could approve and confirm payment of fees without prior Court order for tax purposes when the need to pay said fees is clearly established and circumstances prevented the obtaining of prior approval.~~

~~12.5—In all other cases payment of fees in supervised estates shall be authorized as follows:~~

~~———A. One-half upon the filing of an inheritance tax return or upon a Court determination of no tax due; and~~

~~———B. The remaining one-half upon approval of the final account.~~

~~12.6—In a guardianship an initial petition for fees may be filed upon filing the inventory. Except as provided in paragraph 12.7, no further petition for fees will be approved until an annual, biennial or final account is approved.~~

~~12.7—When unusual circumstances require substantial work in a guardianship, the Court may award fees before the approval of an account.~~

~~12.8—Attorney fees for representing a minor in settlement of a claim for personal injuries are subject to Court approval. If the entire attorney fee is to be paid at the time a structured settlement is approved, the amount of the fee must be based on the present value of the~~

settlement.

~~RULE 13. VOUCHER REQUIREMENTS FOR ACCOUNTS~~

~~———— I.C. 29-1-16-4 requires that personal representatives of supervised estates and guardians file vouchers (proof of payment) for all disbursements when an account is filed. Affidavits in lieu of vouchers will be accepted from corporate fiduciaries and will also be accepted in any other estate if counsel for the estate files with the Court an affidavit stating he/she will retain the vouchers in his/her office for a period of 6 years.~~

~~RULE 14. NOTICE~~

~~14.1 — Whenever notice of any hearing or trial is given, it is the responsibility of the moving party to submit proof of services.~~

~~14.2 — Copies of the subject motion or petition must be served with all notices of hearing.~~

~~14.3 — Whenever any estate or guardianship account (including a final account in a supervised estate) is set for hearing, copies of the account must be served with notice of hearing.~~

~~RULE 15. REQUIREMENT OF VERIFICATION~~

~~———— All motions, petitions, inventories and accounts in estates or guardianships shall be notarized or verified.~~

~~RULE 16. CHANGE OF ADDRESS~~

~~———— A personal representative or guardian who changes address shall immediately advise the Court of the new address.~~

LR79-AR15-1 Court Reporter Services

~~The undersigned courts comprise all of the courts of record of Tippecanoe County, Indiana and hereby adopt the following local rule by which court reporter services shall be governed.~~

Section One. Definitions. The following definitions shall apply under this local rule:

- (1) A *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) Equipment means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
- (3) Work space means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- (4) Page means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2, and includes the index and table of contents pages.
- (5) Recording means the electronic, mechanical, stenographic, digital, or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) Regular hours worked means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- (7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
- (8) Overtime hours worked means those hours worked in excess of forty (40) hours per work week.
- (9) *Workweek* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- (10) Court means the particular court for which the court reporter performs services. Court may also mean all of the courts in Tippecanoe County.

- (11) County indigent transcript means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (12) State indigent transcript means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (13) Private transcript means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

Section Two. Salaries and Per Page Fees.

- (1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.
- (2) Court reporters may contract to prepare transcripts outside the hours in which their attendance is required and outside hours they perform other work pursuant to their employment relationship.
 - (a) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$4.00; the court reporter shall submit a claim to the ancillary court reporter, who shall submit the claim to the county for the preparation of any county indigent transcripts. The ancillary court department shall have the responsibility of maintaining the budget for county indigent transcripts.
- (3) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$4.00. The court reporter shall submit the invoice for state indigent transcripts directly to the state.
- (4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$4.00. The court reporter shall submit the invoice for private transcripts directly to the attorney requesting the transcription. A deposit in the amount of the estimated work shall be required from the attorney making a private transcript request.
- (5) The per page fee for expedited transcripts shall be \$6.50 with 24 hours notice and \$5.00 with three (3) days notice.
- (6) An additional labor charge may be assessed in the amount of the court reporter's hourly rate based upon the court reporter's annual court compensation or \$15.00 per hour, whichever is greater, for the time spent binding the transcript and the exhibit binders. An additional charge shall be assessed for the office supplied required and utilized for the binding and the electronic transmission of the transcript, pursuant to Indiana Rules of Appellate Procedure 28 and 29,

pursuant to a Schedule of Transcript Supplies published annually by the Judges of the County.

(7) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

Section Three. Private Practice.

(1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

- (a) The reasonable market rate for the use of equipment, work space and supplies;
- (b) The method by which records are to be kept for the use of equipment, work space and supplies; and
- (c) The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.

(2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

LR79-AR15-2 Assigned Counsel and Guardian Ad Litem Fees

~~The undersigned courts comprise all of the courts of record of Tippecanoe County, Indiana and hereby adopt the following local rule regarding assigned counsel and guardian ad litem fees.~~

1. Assigned Counsel Fees
 - a. Assigned counsel in pauper cases shall be paid by the court at the rate of \$75.00 per hour, unless state law requires a different rate of payment.
 - b. Assigned counsel shall submit verified, itemized claims using units of time no larger than one-quarter hour, detailing the work for which they seek payment.
2. Guardian Ad Litem Fees
 - a. The order appointing a guardian ad litem shall specify the guardian's hourly fee, the amount of the retainer, and the allocation of the guardian's fee between the parties.
~~Recommended forms of order are attached as Forms A and B.~~
 - b. Guardians ad litem may agree with the parties to a case upon the fee they will charge.
 - c. If there is a written agreement signed by the parties, or a court order entered at the time of appointment establishing the guardian's fees, the court will approve an agreed fee no greater than \$200.00 per hour.
 - d. A fee established by court order entered at the time of appointment or by written agreement may be enforced by judgment and supplemental proceedings.
 - e. In the absence of a written agreement or court order entered at the time of appointment, the court shall enforce payment at the assigned counsel rate established by section 1 (a) of this order.
 - f. If the guardian is unable to collect his or her fee from the parties, the guardian may apply for payment to the court. The court shall then conduct a hearing to determine if the delinquent party is indigent. If the court finds that the delinquent party is indigent, the court shall order payment of the guardian's fee from the Family Relations Fund. The payment from the Family Relations Fund shall be calculated by multiplying the total hours billed by the guardian by the assigned counsel rate and subtracting the total amount previously received by the guardian.

LR79-JR4-1

LOCAL RULE REGARDING JURY RULES

Pursuant to the Order of the Supreme Court of Indiana, adopted December 31, 2001, and amended July 19, 2002, amending the Indiana Jury Rules, and in the exercise of its inherent authority to supervise the administration of all courts of this state, this Local Rule is adopted and promulgated.

Jury Rule 4, Notice of Selection of Jury Pool and Summons for Jury Service, mandates that the Judges of the Courts of Record of Tippecanoe County select by Local Rule, one of the two procedures outlined therein for summoning jurors.

The Judges of the Courts of Record of Tippecanoe County, being duly advised, hereby promulgate this Local Rule adopting the two-tier notice and summons system described in Jury Rule 4.. The jury qualification form and notice will be the first tier and summoning the prospective juror at least one week before service will be the second tier.

The Bailiff of each court of record, as well as the Clerk of Tippecanoe County, is hereby designated as a Jury Administrator.